

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NORTH CAROLINA
RALEIGH DIVISION

In re:)
)
ADVANCED LIGHTING TECHNOLOGIES,) Case No. 15-00081-5-SWH
LLC) Chapter 11
)
Debtor.)
)

LIMITED OBJECTION TO DEBTOR'S EMERGENCY MOTION
FOR ORDER AUTHORIZING POST-PETITION FINANCING ARRANGEMENT
PURSUANT TO 11 U.S.C. § 364(d)

NOW COMES, Eck Supply Company (“Eck”), by and through its undersigned counsel, and files this limited objection in response to the Debtor’s Emergency Motion for Order Authorizing Post-Petition Financing Arrangement Pursuant to 11 U.S.C. § 364(d) (the “Motion”) filed on January 7, 2015. In support of this response, Eck shows unto the Court as follows:

1. Debtor is an electrical contracting company which utilized materials and supplies provided pre-petition by Eck for use on various projects located in North Carolina.
2. Debtor failed to timely pay for several of the project improvements which Eck provided on credit.
3. As of the petition date, Debtor owed Eck in excess of \$597,301.17.
4. In its motion, Debtor seeks sufficient funds to continue operations and to make payments “to certain creditors of the Debtor that have the right to assert claims of lien on funds under N.C. Gen. Stat. 44A.” In order to obtain these funds, Debtor proposes to grant Durham Capital a first position lien on Debtor’s receivables and seeks to prime the lien of BB&T.
5. While Debtor has expressed its intention to use those funds to pay Eck and other suppliers that have the right to assert claims of lien on funds owed to Debtor, the Motion is silent

as to whether Debtor seeks to impair Eck's right to assert those liens on funds with "priority over all other interests or claims" in Debtor's receivables should Debtor fail to pay Eck in a timely manner. *See N.C. Gen. Stat. § 44A-22.*

6. Pursuant to N.C. Gen. Stat. § 44A-18, liens upon funds in favor of Eck arose, attached, and were effective immediately upon the first furnishing of labor and materials at the site of the improvement.

7. Debtor has requested that Eck not serve notices of claim of lien on funds and seeks relief on an emergency basis.

8. Eck objects to the extent Debtor's motion seeks to prime Eck's liens on Debtor's receivables on an emergency basis without providing adequate protection of Eck's interest in those funds or sufficient time to perfect its liens.

WHEREFORE, Eck requests that the Court enter an order:

1. Denying the Debtor's Motion to the extent it seeks to prime Eck's liens on Debtor's receivables;

2. Providing that, the granting of a first position lien to Durham Capital shall have no effect on, and will be without prejudice to, the right of Eck to perfect and enforce its lien rights, including, without limitation, Eck's right to liens in the Debtor's receivables with priority over all other interests or claims pursuant to North Carolina law; and

3. Such other relief as the Court may deem just and proper

This the 13th day of January, 2015.

/s/ Brian R. Anderson

Brian R. Anderson
N.C. State Bar No. 37989
banderson@nexsenpruet.com
Attorney for Eck Supply Co.

OF COUNSEL:

NEXSEN PRUET, PLLC
701 Green Valley Road, Suite 100
Post Office Box 3463
Greensboro, North Carolina 27402
Telephone: (336) 373-1600

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NORTH CAROLINA
RALEIGH DIVISION

In re:)
)
ADVANCED LIGHTING TECHNOLOGIES,) Case No. 15-00081-5-SWH
LLC) Chapter 11
)
Debtor.)
)

CERTIFICATE OF SERVICE

I certify that I have this date, served or caused to be served a copy of the foregoing **LIMITED OBJECTION TO DEBTOR'S EMERGENCY MOTION FOR ORDER AUTHORIZING POST-PETITION FINANCING ARRANGEMENT PURSUANT TO 11 U.S.C. § 364(d)** by the Court's CM/ECF electronic service and/or by first class Mail, postage prepaid, on the following:

Advanced Lighting Technologies, LLC
118 Peter Gill Rd.
Henderson, NC 27537
Debtor

Philip W. Paine (via ECF)
Jordan, Price, Wall, Gray, Jones
PO Box 10669
Raleigh, NC 27605
Counsel for Debtor

Gerald A. Jeutter, Jr. (via ECF)
Attorney at Law, PA
Post Office Box 12585
Raleigh, North Carolina 27605
Counsel for Durham Commercial Capital

James S. Livermon (via ECF)
Post Office Box 353
Rocky Mount, NC 27802-0353
Counsel for Branch Banking and Trust Company

This the 13th day of January, 2015.

/s/ Brian R. Anderson

Brian R. Anderson
N.C. State Bar No. 37989
banderson@nexsenpruet.com
Attorney for Eck Supply Co.

OF COUNSEL:
NEXSEN PRUET, PLLC
701 Green Valley Road, Suite 100
Post Office Box 3463
Greensboro, North Carolina 27402
Telephone: (336) 373-1600